

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

BERNARD MULDER,

Plaintiff,

Case No. 16 cv 1451

v.

HON. JANET T. NEFF

LOCAL 705, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS,
PENSION FUND,

Defendant.

/

JOINT STIPULATION FOR SCHEDULING RESPONSIVE PLEADING

Plaintiff, BERNARD MULDER, and Defendant, LOCAL 705 INTERNATIONAL BROTHERHOOD OF TEAMSTERS PENSION FUND, by and through their respective attorneys, hereby advise the Court of the status of their contact and stipulate to the following, subject to the approval of the Court:

1. Plaintiff filed this action on December 22, 2016, seeking relief under ERISA, 29 U.S.C. 1132. Specifically, in Count I, Mr. Mulder seeks an award of interest on a retroactive pension benefit payment made to him by the Pension Fund in January 2014. In Count II, Mr. Mulder seeks an award of statutory damages for an alleged failure to provide records as required under ERISA.

2. Defendant Pension Fund was served with the instant lawsuit by certified mail on January 3, 2017, making its answer due on or before January 25, 2017.

3. After having an opportunity to review the complaint and conduct a preliminary investigation, the Pension Fund's attorney contacted Mr. Mulder's attorney to discuss the lawsuit and Mr. Mulder's claim for interest. One of the first issues discussed by the parties was whether Mr. Mulder was required to exhaust internal appeals prior to filing the instant suit.

4. The Pension Fund's attorney advised that the Pension Fund Board of Trustees was meeting on February 3, 2017, and that this would be the first opportunity the Trustees had to discuss the lawsuit and Mr. Mulder's claim. Accordingly, Mr. Mulder's attorney agreed not to pursue a default against Defendant until on or after February 10, 2017, in order to allow the Pension Fund an opportunity to retain local counsel and for the Board of Trustees to consider the matter preliminarily.

5. On February 2, 2017, this Court issued an order directing Plaintiff to file a motion for default or to otherwise show cause as to why the case should not be dismissed for want of prosecution on or before February 16, 2017.

6. At the February 3, 2017 meeting, the Board of Trustees decided to invite Mr. Mulder to file an appeal over the Pension Fund's non-payment of interest. Mr. Mulder has agreed to file an appeal and present his case to the Board of Trustees for hearing at the April 7, 2017 meeting.

7. By agreeing to process this appeal now, neither Mr. Mulder nor the Pension Fund, waive any arguments they may have as to its necessity, validity or ultimate impact on the lawsuit.

8. Since the parties intend to present the appeal for consideration on April 7, 2017, the parties stipulate that the Pension Fund's responsive pleading would be due by April 21, 2017.

9. The parties consider the above proposed course of action to be in the best interest

of all concerned, stipulate that this request is not for dilatory purposes or otherwise intended to needlessly delay or prolong these proceedings and pray that the Court will look favorably upon their agreement as stated herein.

IT IS SO ORDERED.

Dated: February ____, 2017

Hon. Janet T. Neff
U.S. District Court Judge

Respectfully submitted,

/s/ Mark S. Allard
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Respectfully submitted,

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